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*Washington, Saturday, February 12, 1938*

## DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

### ROSEBUD RESERVATION, SOUTH DAKOTA ORDER OF RESTORATION

Whereas, under authority contained in the acts of Congress approved April 23, 1904 (33 Stat. 254), March 2, 1907 (34 Stat. 1230), and May 30, 1910 (36 Stat. 448), providing for the disposal by the United States of large areas of land within the boundaries of the Rosebud Indian Reservation, State of South Dakota, said areas were opened to settlement and entry under the general provisions of the homestead and townsite laws of the United States and of the said acts of Congress by Presidential proclamations of May 13, 1904 (33 Stat. 2354), August 24, 1908 (35 Stat. 2203), and June 29, 1911 (37 Stat. 1691), respectively, and

Whereas, pursuant to authority contained in the act of March 2, 1907, supra, certain tracts of land within the opened portion of the reservation were set aside and reserved for the townsites of Wamblee, Witten, and Wewela, and

Whereas, there are now remaining undisposed of on the said opened portion of the Rosebud Reservation a number of tracts of surplus land, together with a large number of vacant lots within the above mentioned townsites which, while of little value for the original purpose of settlement and entry, upon thorough investigation have been found to be valuable to the Indians of the said reservation, and

Whereas, by relinquishment and cancellation of homestead entries a small additional area of land may be included within the class of undisposed-of surplus land, and

Whereas, the Tribal Council, the Superintendent of the Rosebud Indian Reservation, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership of all such undisposed-of lands in the said reservation.

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by Sections 3 and 7 of the act of June 18, 1934 (48 Stat. 984), I hereby find that restoration to tribal ownership of all lands which are now or may hereafter be, classified as undisposed-of, surplus, opened lands of the Rosebud Indian Reservation, together with all unsold lots in the townsites of Wamblee, Witten, and Wewela, will be in the public interest, and the said lands are hereby restored to tribal ownership for the use and benefit of the Rosebud Sioux Tribe of Indians of the Rosebud Indian Reservation in the State of South Dakota, and are added to and made a part of the existing reservation, subject to any valid existing rights.

HAROLD L. ICKES,  
*Secretary of the Interior.*

January 12, 1938.

[F. R. Doc. 38-466; Filed, February 11, 1938; 10:17 a. m.]

## INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. 54]

### SUPPLEMENTARY REGULATIONS RELATIVE TO BIDS OF CARRIERS SUBJECT TO THE CLAYTON ANTITRUST ACT FOR SECURITIES, SUPPLIES, OR OTHER ARTICLES OF COMMERCE

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 29th day of January, A. D. 1938.

It appearing, that the Commission's order herein dated October 6, 1919, and as amended October 4, 1920, and still in force (56 ICC 847-850), which prescribed regulations to govern bids subject to Section 10 of the Clayton Antitrust Act, for securities, supplies, or other articles of commerce, applied to all carriers subject to the Act to regulate commerce.

And it further appearing that under the provisions of Part II of the Interstate Commerce Act (Motor Carrier Act, 1935) common carriers by motor vehicle, which are engaged in interstate or foreign commerce, now are subject to the Commission's jurisdiction;

It is ordered, that the regulations prescribed in said order dated October 6, 1919, as amended October 4, 1920, be, and they are hereby, made applicable on and after January 29, 1938, to all common carriers subject to Part II of the Interstate Commerce Act (Motor Carrier Act, 1935).

It is further ordered, that notice of this order be given to all interested parties, including common carriers subject to Part II of the Interstate Commerce Act (Motor Carrier Act, 1935) and all others of the general public affected by this order, by publishing it, together with said order of October 6, 1919, as amended October 4, 1920, in the *FEDERAL REGISTER*, and by depositing copies thereof in the office of the Secretary of the Commission in Washington and the office of each of the District Directors of the Bureau of Motor Carriers of the Commission.

By the Commission.

[SEAL]

W. P. BARTEL, *Secretary.*

[Ex Parte No. 54]

### ORDER [AS AMENDED OCTOBER 4, 1920]

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 6th day of October, A. D. 1919.

It appearing; that section 1 of "An Act to Supplement existing Laws Against Unlawful Restraints and Monopolies, and for Other Purposes," approved October 15, 1914, hereinafter called the Clayton Antitrust Act, contains, among others, the following definitions:

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State,





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Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this Act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

And it further appearing; that section 10 of the said Act provides:

That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership or association when the said common carrier shall have upon its board of directors or as its president, manager or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said Commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both, in the discretion of the court. (38 Stat. c. 323, p. 730.)

And it further appearing; that by Joint Resolution Congress extended the effective date of section 10 to January 1, 1919, except as to corporations organized after January 8, 1918, (39 Stat. c. 427, p. 674; 39 Stat. c. 190, p. 1201; 40 Stat. c. 8, p. 431).

It is ordered; That the following regulations be, and they are hereby, prescribed to become effective on and after January 1, 1920, viz:

1. When any carrier, subject to the Act to regulate commerce, is required by section 10 of the Clayton Antitrust Act to call for bids for securities, supplies, or other articles of commerce, or for the construction or maintenance of any kind or part of its carrier property such carrier shall prepare specifications, form of proposals and contract, setting forth clearly and so far as applicable in each case in detail a description or descriptions of the matters and things for which bids are requested, the terms, times and conditions of delivery and payment, the place or places where delivery or performance is to be made, the character, amount, and terms of securities offered or sought, and a full description of the supplies or other articles required or offered for sale, hypothecation, or purchase, and shall make and attach to such specifications such maps, drawings, and illustrations and state such other substantial facts or conditions as are or may be necessary to a full understanding of the premises and procedure by bidders. Such specifications, drawings and illustrations in each case shall be kept open at the principal office or offices of the carrier for full examination, free of charge, by persons desiring to examine the same with a view to bidding, and, upon request, such carrier shall furnish to any person or persons desiring the same true and accurate copies of such specifications, maps, drawings and illustrations; *provided* that the carrier may make a charge for such copies so furnished, the charge not to exceed the reasonable cost of making and forwarding the copies requested.

The carrier shall publish in each case a request for bids in at least two daily newspapers of general circulation, at least two publications in each week for two weeks, the first publication to be at least two weeks immediately preceding the day when the bids are to be submitted; one such newspaper shall be published or shall be of general circulation in the city or town where the principal operating office of the carrier is located and the other newspaper shall be published in one other of the following cities nearest to the operating or financial office of the carrier or the place where the contract is to be performed, namely: New York, N. Y., Boston, Mass., Chicago, Ill., St. Louis, Mo., Atlanta, Ga., San Francisco, Cal., and Portland, Oreg.; and a printed copy of the published notice in each case shall be posted in plain view, for two weeks immediately preceding the day on which bids are to be received, on a bulletin board, designated for that purpose, in a public and conspicuous place in the building where the principal operating office of the carrier is located. Such published notices shall describe in general but intelligible terms the proposed contract, giving its serial number, and the special matter or things for which bids are requested, and the date on or before which the bids

<sup>1</sup> Further extended to January 1, 1921, except as to corporations organized after January 12, 1918 (41 Stat. c. 91, p. 499).



must be submitted, and the person by whom and the office at which the bids submitted will be received and opened as herein provided. The carrier may in said notice reserve the right to reject any and all bids and may, at its option, require each bidder to tender a bond in a reasonable sum to be therein named, with sufficient surety or sureties conditioned upon the faithful and prompt performance of the terms of the contract.

2. Every bid to receive consideration shall be submitted at the place specified in the notice on or before noon of the day on which the bids are to be opened and the bids shall be opened after noon and before six o'clock, on the day and at the place and by the person or persons designated in the notice. Each bidder may attend in person or by duly authorized representative at the opening of the bids, and shall be afforded an opportunity to do so and to examine each bid. The bids shall forthwith be tabulated in conformity with the form of proposal prepared and a copy of such tabulation shall be promptly furnished to any bidder or his authorized representative upon application therefor.

When required by the notice, each bid shall be accompanied by tender of a bond in the amount specified in the notice with sufficient surety or sureties conditioned upon the faithful and prompt performance of the proposed contract. A bond shall be required only in cases where the notice for bids expressly calls for a bond.

Each bid shall be enclosed with accompanying papers in a plain envelope securely sealed bearing no indication of the name of the bidder or the amount of the bid, and shall be marked "Bid under proposed contract No. —," and shall be addressed to the officer of the carrier designated in the notice to receive the same.

Each bid shall state the name and address of the bidder and, if the bidder be a corporation, the names and addresses of the officers, directors and general manager thereof and of the purchasing or selling officer or agent in that transaction and, if the bidder is a firm, partnership or association, the bid shall give the names and addresses of each member thereof, and of the manager, purchasing or selling officer or agent in that transaction.

3. After receiving and opening bids as aforesaid, the carrier receiving the same shall within 48 hours in cases where the sale or purchase of securities is the undertaking, and within ten days where bids are for supplies, equipment, other articles of commerce and for construction or maintenance work, accept the most favorable bid considering (1) the lowest price or prices for the supplies, equipment, and other articles of commerce, and for the construction or maintenance work, described in the advertisement, and the highest price or prices offered for any securities or property, so described, for sale by the carrier, and (2) the ability and reliability of the bidder, financial and otherwise, to deliver the property or to perform the work or transaction, or to pay for the securities, described in the advertisement, giving due consideration to any bond or security tendered by the bidder. If the right be reserved in the notice all bids may be rejected and the carrier may readvertise for bids. The carrier shall notify the successful bidder of the acceptance of his or its bid, and the bidder shall within ten days execute the required contract, and, if required by the notice, execute a good and sufficient bond for the faithful and prompt performance of the contract. In case the successful bidder shall neglect or fail within said time to execute the contract or bond as aforesaid the carrier may within five days

award the contract to the next most favorable bidder, ascertained as herein provided for determining the most favorable bidder. If neither the most favorable bidder nor the next most favorable bidder shall execute a contract and qualify as aforesaid, the carrier shall readvertise for new bids.

4. Each carrier after having made and executed a contract as and in the manner above specified shall within thirty days after the execution of such contract file with the Interstate Commerce Commission a statement of the transaction giving, (a) a copy of the published notice; (b) the names of all bidders, and, if the bidder be a corporation, the names and addresses of the officers, directors and general managers thereof and of the purchasing or selling officer or agent in that transaction, or if the bidder be a partnership or firm, the names and addresses of the members of the firm, the general manager and purchasing or selling agent thereof, and the total amount of each bid; (c) the name of the bidder to whom the contract was awarded together with a copy of the contract; and (d) if any other than the lowest or the highest bid, as the case may be, is accepted as being most favorable to the carrier, the reasons for such acceptance. The statement shall be made in type-writing, in pamphlet form on pages not less than 8 by 10½ inches in size nor greater than 9½ by 12 inches, in size, bound on the longer edge of the page, the paper to be of durable quality fit for permanent record.

5. [As amended October 4, 1920.] In the case of each bid so taken as aforesaid, the carrier shall preserve and keep open for examination by the Interstate Commerce Commission or any duly authorized examiner thereof, (a) a copy of the resolution or order of the Board of Directors, Executive Committee, or officers of the said common carrier specifying the purposes and terms of the contract for which the bids were invited; (b) a copy of the specifications, maps, drawings, and illustrations upon which bids were made; (c) copies of the notices published, sworn to by or on behalf of the publisher of each paper, respectively, giving the dates and times of publication; (d) the original bids received, designating the bid accepted and giving a statement of the reasons for accepting the same; (e) a copy of the contract entered into between the carrier and the accepted bidder, together with a copy of the bonds if any; (f) references by number of volume and page to the records of proceedings of the stockholders, directors, or executive committee of the carrier. The files in each transaction shall be securely fastened together and given the contract number and each document therein shall be numbered consecutively and at the conclusion thereof shall be a sworn statement by the president, a vice president, or the general manager of the carrier, stating that the files in No. — contain true and complete records and statements of all the negotiations had in connection with the contract therein set forth. Such files shall not be broken or any part destroyed by the carrier or any officer or agent of the carrier without written authorization from the Interstate Commerce Commission.

It is further ordered, That a copy of this order be served upon each common carrier subject to the interstate commerce act, and that notice of this order be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission in Washington, D. C.

By the Commission.

[SEAL.]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 38-467; Filed, February 11, 1938; 12:14 p. m.]



